REMARKS

The Official Action mailed March 16, 2010, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statements filed on September 29, 2006, and November 15, 2006.

The Applicant notes the *partial* consideration of the Information Disclosure Statement filed on December 4, 2008. Specifically, it appears that the Examiner inadvertently overlooked the citation of the "Official Action (Application No. JP 2004-108399) dated September 9, 2008." A copy of the partially considered Form PTO-1449 is available in the Image File Wrapper under the heading, "List of References cited by applicant and considered by examiner" and has a mail room date of "03-16-2010." The Applicant respectfully requests that the Examiner provide an initialed copy of the Form PTO-1449 evidencing consideration of the "Official Action (Application No. JP 2004-108399) dated September 9, 2008."

Paragraph 2 of the Official Action objects to the use of the term "means" in the abstract. In response, the abstract has been amended so as to remove the term "means" from the abstract. The amended abstract is believed to fully comply with MPEP § 608.01(b). Accordingly, reconsideration and withdrawal of the objections are in order and respectfully requested.

Claims 1-10 were pending in the present application prior to the above amendment. The Applicant notes with appreciation the allowance of claims 2-8 (page 9, Paper No. 20100308). Paragraph 4 of the Official Action rejects claims 1 and 9 as obvious based on the combination of U.S. Patent No. 5,432,778 to Minde and U.S. Patent No. 6,519,740 to Mårtensson. Paragraph 5 of the Official Action rejects claim 10 as obvious based on the combination of Minde, Mårtensson and U.S. Patent No. 7,168,031 to Burkert. In response and in accordance with the statement of allowed

subject matter (Id.), independent claim 1 has been amended to include the allowable features of dependent claim 2, and independent claims 9 and 10 have been amended to include features similar to those previously recited in dependent claim 2. Therefore, independent claims 1, 9 and 10, as amended, recite allowable subject matter, and the above-referenced rejections are believed to be moot. Also, dependent claims 3-5 and 7 have been amended to correct the dependency of the claims in light of the cancellation of claim 2. Accordingly, claims 1 and 3-10 are now pending in the present application, of which claims 1, 9 and 10 are independent, and all of which are believed to be in condition for allowance.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized to charge fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(a), 1.20(b), 1.20(c), and 1.20(d) (except the Issue Fee) which may be required now or hereafter, or credit any overpayment to Deposit Account No. 50-2280.

Respectfully submitted,

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ABSTRACT

~~There is disclosed technical means~~ <u>A device and method</u> for effectively judging a communication quality in a communication system <u>and a program used for the judgment</u>. A communication device generates a four-value FSK symbol by adding a redundant bit to a bit of the most important part of encoded audio data. The symbol containing the redundant bit is set so that the symbol value is the maximum value of the minimum value of the four values which may be obtained. A reception device R receives the FSK modulation wave, restores the symbol, counts the number of redundant bits contained in the restored symbol and having incorrect values, decides whether to perform a bad frame masking process and what kind of bad frame masking process is to be performed, and executes the decided process. Thus, it is possible to accurately or rapidly judge the communication quality with a simple configuration.